

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JACK E. ALDERMAN

Plaintiff,

v.

JAMES E. DONALD, in his capacity
as Commissioner of the Georgia
Department of Corrections; HILTON
HALL, in his capacity as Warden,
Georgia Diagnostic and Classification
Prison; DOES 1-50, UNKNOWN
EXECUTIONERS, in their capacities
as employees and/or agents of the
Georgia Department of Corrections

Defendants.

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CIVIL ACTION
FILE NO. 1:07-CV-896-BBM

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S NOTICE OF FILING**

COME NOW James E. Donald, Commissioner, Georgia Department of Corrections, and Hilton Hall, Warden, Georgia Diagnostic and Classification Prison,¹ by counsel, the Attorney General for the State of Georgia, respond to Plaintiff's Notice of filing.

¹ Plaintiff has also specified numerous unknown, unnamed party Defendants in this lawsuit. (R1-1, ¶ 4). To the extent that any such individuals have been properly named and served, it is the intent of counsel to represent the individuals. To the extent that there has not been proper service, a "special appearance" is being made for the purpose of presenting this response on their behalf.

1.

On June 13, Plaintiff filed copies of correspondence written to the court, and to counsel for the Defendant. (R1-21). The gravamen of the correspondence is Plaintiff's complaint and acrimony over not being advised of internal Department functions, or not being preemptively provided discovery prior to the commencement of the discovery period. Id. Consequently, Plaintiff makes speculative accusations, and casts aspersions on counsel for the Defendants. Id. Finally, Plaintiff takes the opportunity to reargue his position in the case. Id.

2.

Pretermitted the propriety of the Plaintiff's filing, See Local Rule 7.4, Defendants simply note that Plaintiff cited no authority for the novel proposition that he is entitled to be informed of the internal activity of the Department of Corrections.

Further, with regard to the Protocol, Plaintiff could have obtained a copy in the same manner that the local media obtained a copy.² However, as it is a public document and Defendants have nothing to hide, for what it is worth in consideration of a motion to dismiss for failure to exhaust, it is attached to the instant pleading.

² Plaintiff's New York counsel may not have been aware of this fact; however, Plaintiff is also represented locally by King & Spalding LLP, and the Georgia Resource Center.

3.

Plaintiff further accuses Defendants of obstruction or delaying this case in failing to respond to Plaintiff's grievance and by modifying the protocol despite the existence of the instant litigation. The purpose behind the grievance system is to provide prison officials an opportunity to review matters internally prior to them being addressed by the courts. Alexander v. Hawk, 159 F.3d 1321 (11th Cir. 1998). Defendants should not be criticized for utilizing the grievance procedure for the purpose for which it was designed.

Respectfully submitted this 15th day of June, 2007.

THURBERT E. BAKER
Georgia Bar No. 033887
Attorney General

MARY BETH WESTMORELAND
Georgia Bar No. 750150
Deputy Attorney General

KATHLEEN M. PACIOUS
Georgia Bar No. 558555
Deputy Attorney General

/s/ Joseph Drolet _____
Georgia Bar No. 231000
Senior Assistant Attorney General

(Signatures continue on next page)

/s/ Eddie Snelling, Jr.
Georgia Bar No. 665725
Senior Assistant Attorney General

Please Serve:

EDDIE SNELLING, JR.
Senior Assistant Attorney General
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CERTIFICATION AS TO FONT

Pursuant to N.D. Ga. Local Rule 7.1 D, I hereby certify that this document is submitted in Times New Roman 14 point type as required by N.D. Ga. Local Rule 5.1(b).

/s/ Eddie Snelling, Jr.
Georgia Bar No. 665725
Senior Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2007 I electronically filed **DEFENDANTS' RESPONSE TO PLAINTIFF'S NOTICE OF FILING** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

William E. Hoffman, Jr.
Jason R. Edgecombe
King & Spalding, LLP
1180 Peachtree Street
Atlanta, Georgia 30309

Thomas H. Dunn
Georgia Resource Center
303 Elizabeth Street
Atlanta, Georgia 30309

And, prior to filing the same, by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

James Ringer
Michael A. Siem
Elizabeth K. Quinn
Clifford Chance US LLP
31 west 52nd Street
New York, NY 10019-6131

/s/ Eddie Snelling, Jr.
Georgia Bar No. 665725
Senior Assistant Attorney General

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